



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 24, 1995

Ms. Lisa Uselton  
Staff Attorney  
Enforcement Coordination and Litigation Division  
Texas Natural Resource Conservation Commission  
P.O. Box 13087  
Austin, Texas 78711-3087

OR95-680

Dear Ms. Uselton:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 32539.

The Texas Natural Resource Conservation Commission (the "TNRCC") received a request for the identities of complainants who informed the TNRCC of possible violations of air pollution standards by the requestor's drilling company. You have provided this office copies of complaint forms which note the identities of the complainants and the reported violations. You claim that the identities of the complainants are excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the informer's privilege.<sup>1</sup>

The informer's privilege protects the identity of persons who report violations of the law to officials having the duty of enforcing particular laws. *See Roviario v. United States*, 353 U.S. 53, 59 (1957). The informer's privilege does not, however, apply to information that does not describe illegal conduct. Open Records Decision No. 515 (1988) at 5. Furthermore, once the identity of the informer is known to the subject of the communication, the exception is no longer applicable. Open Records Decision No. 202 (1978) at 2.

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<sup>1</sup>As you do not argue that the substance of the complaints may be withheld, we assume that you intend to release the remaining information on the complaint forms.

In this case, it is clear that the requestor is unaware of the identities of the complainants. Additionally, a report of air pollution to the TNRCC is certainly a report of a potential violation of law to the agency responsible for enforcing that law. Open Records Decision No. 391 (1983) at 3. Therefore, you may withhold the names and addresses of the complainants pursuant to the informer's privilege.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/LMM/rho

Ref.: ID# 32539

Enclosures: Submitted documents

cc: Mr. Tommy Moses  
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P.O. Box 1867  
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(w/o enclosures)